

GAHC010158832023



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WA/372/2023

THE MANAGING COMMITTEE OF CHAPANALA CO-OPERATIVE SOCIETY
LTD.

CHAPANALA, NAGAON, PIN-783135 REP. BY THE CHAIRMAN CUM
PRESIDENT SRI GOKUL NAYAK.

VERSUS

SRI LAMBUDHAR GOGOI AND 6 ORS

S/O. LT. RAJEN GOGOI, VILL. GORACHOCK, BEBEJIA, P.O. CHAPANALA,
P.S. SAMAGURI, DIST. NAGAON, PIN-782135, ASSAM.

2:THE STATE OF ASSAM

REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM

CO OPERATION DEPARTMENT
DISPUR GUWAHATI 781006
ASSAM

3:THE DEPUTY COMMISSIONER

NAGAON
PIN-782002
ASSAM.

4:THE DY. DIRECTOR

FOOD AND CIVIL SUPPLIES AND CONSUMER AFFAIRS
NAGAON
ASSAM.

5:THE REGISTRAR OF COOPERATIVE SOCIETIES

ASSAM
KHANAPARA
GUWAHATI-781022.

6:THE ZONAL JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES

GUWAHATI ZONE
BHANGAGARH
GUWAHATI-781005
ASSAM.

7:THE ASSTT. REGISTRAR OF CO-OPERATIVE SOCIETIES

KALIABOR

Advocate for the Petitioner : MR P MAHANTA

Advocate for the Respondent : MR. P MAHANTA

BEFORE
HONOURABLE THE CHIEF JUSTICE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

Date : 29.09.2023

The instant intra-court writ appeal has been preferred by the appellant challenging the judgment dated 20.06.2023 passed by the learned Single Bench in WP(C) No. 4799/2020.

Learned counsel for the appellant Mr. P. Mahanta as well as Mr. S. K. Talukdar, learned Standing counsel, Cooperation Department, representing respondent nos. 2, 5, 6 and 7 submit that even if the functions of the cooperative society fall within the domain of public duty, but the fact remains that the contract of service entered into by the society in respect of the employees would fall within the ambit of purely private contract and, hence, writ jurisdiction could not have been invoked in relation to such contractual disputes.

Learned Standing counsel, Cooperation Department, Mr. S. K. Talukdar supports the submissions of Mr. Mahanta by placing reliance on the judgment rendered by the Hon'ble Supreme Court in the case of ***Ramakrishna Mission and Another vs. Kago Kunya and Others***, reported in ***(2019) 16 SCC 303***, and the judgment of this Court in the case of ***Risheswar Neog vs. State of Assam and Others***, reported in ***1993 1 GLR 184***.

The matter requires consideration.

Admit.

Issue notice.

No steps for service of notice upon the respondents are required to be taken as they are duly represented by their respective counsel.

Heard the learned counsel for the parties on the prayer for stay of the impugned judgment.

Having regard to the contentions advanced by the learned counsel for the appellant as well as by the learned Standing counsel, Cooperation Department and Mr. P. Mahanta, learned counsel for the respondent and also in view of the precedents cited at Bar, it is hereby directed that the effect and operation of the impugned judgement dated 20.06.2023, passed by the learned Single Bench in WP(C) 4799/2020 shall remain stayed until further order(s).

List for hearing in due course.

JUDGE

CHIEF JUSTICE

Comparing Assistant